

Service Date: May 3, 1993

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MONTANA

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| IN THE MATTER OF GROUSE MOUNTAIN |) | TRANSPORTATION DIVISION |
| ASSOCIATES, LTD., dba GROUSE |) | |
| MOUNTAIN LODGE, Petition for |) | |
| Declaratory Ruling on the |) | DOCKET NO. T-93.33.DR |
| Application of Motor Carrier Laws |) | |
| to the Transportation of Hotel |) | ORDER NO. 6193 |
| Guests. |) | |

ORDER GRANTING MOTION TO DEFER
AND ESTABLISHING AUTOMATIC DISMISSAL

On April 1, 1993 the Montana Public Service Commission (PSC) received from Randall Johnson, dba Flathead Glacier Transportation and Whitefish Sober Chauffer Taxi, Inc. (Johnson), a Motion to Defer ruling in the above-entitled matter. The motion is based on several arguments, all principally bearing on the existence of a pending district court case (Eleventh Judicial District, Cause No. DV-93-82A) filed by Johnson against Grouse Mountain Associates, Ltd. (Grouse Mountain), and involving the same or a similar issue of law as that presented in this matter before the PSC.

Although the PSC prefers, as a matter of continuity in the

interpretation and application of motor carrier laws, to first rule on questions such as that presented by the underlying petition by Grouse Mountain, it believes, as a matter of courtesy, if not a legal requirement, that a court having first obtained jurisdiction over an issue of law concerning motor carrier regulation should not be compelled to concern itself with a later filed, yet simultaneously processed, administrative action involving the same issue. Although conflict in ultimate rulings is unlikely, it is possible and the possibility should be avoided.

Good cause appearing, as identified above, IT IS HEREBY ORDERED that further PSC action on the Petition for Declaratory Ruling filed by Grouse Mountain, PSC Docket No. T-93.33.DR, is DEFERRED until:

(a) after the pending court case (DV-93-82A) has been finally decided, including any resulting appeal, if Grouse Mountain requests that the PSC then remove the continuance and demonstrates that a ruling is still necessary; or

(b) the court having jurisdiction in the pending court case (Eleventh Judicial District) either orders a stay of judicial proceedings pending a ruling by the PSC or otherwise takes action

clearly demonstrating a preference that the PSC consider and rule on the issue.

IT IS HEREBY FURTHER ORDERED that the above-entitled matter shall be DISMISSED with no further action by the PSC, unless Grouse Mountain, at six month intervals from the service date of this Order files with the PSC a brief explanation of the status of the court action and indication that its petition should remain pending.

DONE AND DATED this 14th day of April, 1993, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ANDERSON, Chairman

BOB ROWE, Vice Chairman

DAVE FISHER, Commissioner

NANCY MCCAFFREE, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.